



HOUSE OF REPRESENTATIVES

House Bill No. 896

Introduced by Representative Christian Tell A. Yap

EXPLANATORY NOTE

Spectrum management is the assignment, allocation, and general administration of the radio frequency spectrum used for telecommunication. The National Telecommunications Commissions (NTC) is mandated to regulate the spectrum with the public interest in mind. As a scarce resource, the NTC is mandated to regulate the spectrum by granting permits and licenses for service providers such as telecommunications companies (telcos) to meet public consumer demand.

However, the assignment, review and allocation of spectrum frequencies are not without controversies due to the lack of transparency and due process in its assignment and allocation. Furthermore, seeming competition issues arise when larger telcos are granted licenses more frequently with less consideration for smaller and new telcos as service providers.

The maximization of the frequency spectrum is more significant than ever due to the growing demand for IT services exacerbated by the COVID-19 pandemic and the boom in the digital industry. The government then through Congress, NTC, and the DICT must craft the most appropriate policies in balancing the interests of consumers and service providers in spectrum management in order to provide the best IT services and promote the digital economy.

This bill seeks to ensure the proper, efficient and equitable distribution of frequency spectrum by mandating the NTC to make the spectrum allocation, assignment, reclassification, recall and re-assignment transparent in order to protect the rights and general interest of consumers.

In view of the foregoing reasons, the approval of the bill is earnestly sought.

CHRISTIAN TELL A. YAP
Representative, 2nd District of Tarlac

HOUSE OF REPRESENTATIVES

House Bill No. **896**

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AN ACT
PROVIDING FOR POLICIES TO ENHANCE EFFICIENCY AND TRANSPARENCY IN
THE ALLOCATION, ASSIGNMENT, AND MANAGEMENT OF THE RADIO
FREQUENCY SPECTRUM

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

1 **SECTION 1. Short Title.** - This Act shall be known as the “Philippine Spectrum
2 Management Act.”

3
4 **SEC. 2. Declaration of Policy.** - The radio frequency spectrum is a scarce public resource that
5 shall be administered in the public interest and in accordance with international agreements and
6 conventions to which the Philippines is a party. To this end

7 a) The government shall allocate the radio frequency spectrum to promote the adoption of
8 appropriate technologies, an interference-free environment, best practices, and the highest
9 service standards.

10 b) The government shall assign spectrum to service providers capable of efficiently and
11 effectively using it to meet public demand for telecommunications and data transmission
12 services.

13 c) The allocation and assignment of spectrum shall be done in a manner that promotes
14 transparency, competition, and universal service.

15 d) The State recognizes that spectrum allocation and assignment bear significant economic
16 impact on multiple sectors, and therefore the State shall institute in this Act a spectrum
17 allocation and assignment process that is transparent and considers the inputs and needs
18 of various stakeholders, and properly allocates amongst stakeholders the responsibility
19 for spectrum management.

- 1 e) The use of any portion of the radio frequency spectrum is a privilege conferred by the
2 State which may, after due process, be withdrawn any time when the greater good of the
3 public demands it.
4

5 **SEC. 3. Objectives.** - The objectives of this Act are as follows:

- 6 a) Encourage the development and rapid deployment of new technology and improvement
7 of service standards to make wireless services in the Philippines competitive and at par
8 with global standards;
9 b) Ensure better wireless telecommunications, broadcast, and data transmission services and
10 extend service coverage by preventing excessive concentration and consolidation of
11 spectrum licenses;
12 c) Recover a greater portion of the economic value of the radio frequency spectrum for
13 the public;
14 d) Promote more efficient and effective use of radio spectrum; and
15 e) Promote the entry and development of new players for telecommunications and data
16 services.
17

18 **SEC. 4. Definition of Terms.** - As used in this Act:

- 19 a) **Allocation** refers to an entry in the National Radio Frequency Allocation Table (NRFAT)
20 of a given frequency band for the purpose of its use by one or more telecommunications
21 or data transmission services.
22 b) **Assignment** refers to an authorization given to a licensee to use specific frequencies or
23 channels.
24 c) **Block** refers to a portion of the radio frequency spectrum allocated to a licensee pursuant
25 to this Act.
26 d) **License** refers to a license to be granted pursuant to this Act to establish or use a radio
27 base station or install or use radio base station apparatus in the Philippines at frequencies
28 comprising a portion or several portions of the radio frequency spectrum.
29 e) **Licensee** refers to a natural or juridical person issued a license pursuant to this Act; and
30 f) **Material Interest** refers to any interest, whether direct or indirect, in any share which
31 carries, or any shares which together carry, more than twenty-five percent (25%) of the
32 votes entitled to be cast at a general meeting of a licensee; or any share or shares in the
33 case where the consent of the holder of that share or those shares is required for the

1 conduct of any business of a licensee; or the right to appoint or remove a majority of a
2 licensee's Board of Directors or Trustees.

3
4 **SEC. 5. *Mandate for Spectrum Management.*** - The function of radio spectrum management
5 shall be a joint undertaking of the Department of Information and Communications Technology
6 (DICT) for policy and planning aspects, and the National Telecommunications Commission
7 (NTC), for regulatory matters, in consultation with other key relevant government agencies and
8 concerned stakeholders.

9 a) Spectrum allocation and assignment shall be performed by the NTC strictly in
10 accordance with the recommendations of the Radio Frequency Consultative Committee
11 (RFCC) to be organized by the DICT. The RFCC shall be composed of:

- 12 1) The Secretary of the DICT. who shall also act as Chairman;
13 2) The Commissioner of the NTC;
14 3) The Commissioner of the Philippine Competition Commission (PCC);
15 4) The Secretary of the Department of Science and Technology (DOST)
16 5) The National Security Adviser
17 6) One representative each from the following private sector groups:

- 18 a1) Telecommunications entities' associations;
19 a2) Broadcasters' associations;
20 a3) Cable TV operators' associations; and
21 a4) Telecommunications and data services consumer and advocacy groups.

22 The private sector groups shall nominate their representatives to the RFCC within forty-five
23 (45) days from the effectivity of this Act, and every two (2) years thereafter. The private sector
24 representatives shall be appointed by the President of the Philippines (Secretary of the DICT?)
25 for a term of two years.

26 b) Within sixty (60) days from the creation of the RFCC. the RFCC and the NTC shall
27 jointly promulgate a Memorandum Circular to cover the following:

- 28 1) The definition of, and criteria for determining, efficient and effective spectrum
29 use;
30 2) The procedure for:
31 a. review, allocation, assignment, recall, and re-assignment of the radio
32 spectrum, and the reclassification of spectrum from one classification to
33 another (i.e., broadcast to telecom, and vice versa) which shall incorporate

- 1 the Transparency Rule set forth in Section 6 of this Act;
- 2 b. determining license-exempt spectrum, spectrum-sharing techniques, and
- 3 dynamic spectrum access (DSA) bands; and
- 4 c. for determining the spectrum for review.
- 5 3) Appropriate measures to minimize the impact of recall and re-assignment on
- 6 active users of services utilizing the recalled or re-assigned spectrum
- 7 4) The procedure on how to calculate the reasonable spectrum users' fees and the
- 8 amount to be paid for the use of the spectrum
- 9 5) The determination of situations where the demand for a particular radio
- 10 frequency band exceeds availability and the manner by which spectrum shall
- 11 be subject to open tender in case the demand for a specific band of radio
- 12 frequencies exceeds availability.
- 13 c) The RFCC shall promote policies for the proper management of radio spectrum in order
- 14 to assure its availability for all existing and potential competitors in the market, for all
- 15 present and future telecommunications, data transmission, and broadcast services.
- 16 d) The DOST shall support the DICT and NTC in carrying out their spectrum management
- 17 functions by conducting spectrum monitoring, research, and analysis;
- 18 e) The NTC shall be responsible for other aspects of spectrum management, including:
- 19 1) Verification of the correct use of frequency assignment and of station
- 20 characteristics;
- 21 2) Spectrum monitoring, inspection, investigation and elimination of interference;
- 22 3) Gathering and reporting of data for quantitative estimation of spectrum
- 23 utilization factors such as ambient radio noise, emission parameters, and for
- 24 local and international reporting;
- 25 4) Promulgation of regulations for consumer protection against misuse of a
- 26 telecommunications entity's monopoly, quasi-monopolistic or oligopolistic
- 27 powers by investigation of complaints and exacting compliance with service
- 28 standards from such entity;
- 29 5) Recommendation to the RFCC of the allocation of spectrum for a particular
- 30 purpose or use, in accordance with the international conventions to which the
- 31 Philippines is a party;
- 32 6) In the exercise of its regulatory powers, impose fines against Public
- 33 Telecommunications Entities (PTEs), data transmission providers, and

1 broadcasting companies within the scope of its regulation, which are found to
2 have violated, violating or [those which] have failed or are failing to comply
3 with the terms and conditions of this Act. any certificate, or any order, decision,
4 regulation or required performance standards of the NTC.
5

6 **SEC. 6. Transparency Policy.** - The NTC shall make the spectrum allocation, assignment,
7 reclassification, recall, and re-assignment transparent in order to ensure that the rights of all
8 stakeholders are fully protected.

9 a) The NTC shall publish and make available in print and online formats the National Radio
10 Frequency Allocation Table (NRFAT), indicating therein the purpose or use to which
11 each frequency band is allocated. For frequency bands allocated for public use, the NTC
12 shall likewise make available in print and online formats the frequency band, frequency
13 range in each band, the services and/or technology the frequency band is used for, the
14 total assignable channels/bandwidth in a particular frequency band, the name of the
15 person and/or entity to whom each particular frequency is assigned, the bandwidth
16 assigned to a person and/or entity from a particular frequency band, as well as the date
17 each bandwidth assignment was made. The NRFAT and updated radio spectrum use
18 information shall be made available on the NTC's website and to any person who
19 requests the same, upon written request. The NRFAT shall be updated at least once every
20 quarter to reflect changes in allocation and assignments.

21 b) The NTC shall publish the results of the review of spectrum assignment and use on its
22 website.

23 c) The NTC shall be responsible for responding to Requests for Information (RFOIs)
24 relative to spectrum. The NTC shall be responsive and transparent in replying to RFOIs
25 on spectrum, including requests for information on spectrum assignments, which is
26 hereby declared as public information available to all.

27 d) All proposed allocation of spectrum, requests for new spectrum assignments, changes in
28 spectrum assignment, and requests for approval of spectrum co-use between entities,
29 whether initiated by an interested private party or by the NTC, shall be submitted to the
30 RFCC for its review and recommendation. All applications for such actions, including
31 those initiated by the NTC *motu proprio* shall -

32 1) Be published in a newspaper of general circulation at least once a week for
33 three consecutive weeks

2) Posted in a publicly accessible place within the premises of the NTC.

3) Subjected to at least one (1) public hearing to be held within seven (7) days from the completion of publication.

Thereafter, the RFCC shall, within seven (7) days from the last public hearing, submit its recommendation on the proposed action to the NTC, for the implementation of the NTC. The NTC shall publish all decisions on spectrum permits, allocations, re-allocations, assignments, re-assignments, and co-use in a newspaper of general circulation and in a prominent place within the premises of the NTC. The decision shall become effective within 15 days from publication if no appeal is received therefrom. Any appeal shall be addressed to the NTC Commission *en banc*, which shall dispose of the same in a quasi-judicial proceeding.

The recall of frequency for purposes of free public use shall be given priority.

The immediately preceding paragraphs shall not apply to applications for frequency assignments for fixed point-to-point radio links, Wi-Fi, and satellite networks, and another spectrum declared to be license-exempt.

- e) Any proposal of the NTC to reclassify, recall, and/or re-assign spectrum shall likewise be published and subjected to public hearing by the NTC in the manner stated in Section 6 (c) above, and shall likewise require the recommendation of the RFCC, without prejudice to the conduct of quasi-judicial recall proceedings where spectrum is being recalled from a current assignee.
- f) The NTC shall not issue a test or demonstration permit or allow joint use or co-use on a spectrum assigned to an entity other than the applicant of the test, demonstration or co-use permit. The NTC shall require the applicant for a test, demonstration or co-use permit on a spectrum assigned to another entity to submit the written consent of the spectrum's assignee on record.
- g) The NTC shall promptly act on applications for permits to import equipment. Any application for permit to import equipment that is not acted on by the NTC within seven (7) days shall be deemed approved.
- h) If the NTC finds, on its own initiative or upon complaint, that any right, license or radio spectrum assignment to any entity has not been used despite the lapse of an initial authorization, or is no longer in use. or is not being maximized by the user thereof, or that the grantee has violated the provisions of this Act, it may, *main proprio* or upon petition by any person, and subject at all time to due process and securing the recommendation of

1 the RFCC, initiate the recall of the radio spectrum assignment of a Licensee. The NTC
2 shall, where required and appropriate, make provisions for substitute frequency to
3 address the needs of active users of the spectrum recalled from the data transmission
4 industry participant or PTE.

5
6 **SEC. 7. *Spectrum Management Plan.*** - The RFCC shall meet annually to develop a spectrum
7 management plan for the Philippines considering, among others:

- 8 a) Recommendations of the ITU and other bodies as required by international conventions
9 to which the Philippines is a part;
10 b) Public revenue generated from the radio frequency spectrum;
11 c) Future spectrum requirements for public and private use;
12 d) Spectrum allocation measures necessary to accommodate those uses; and
13 e) Measures necessary to promote the efficient use of spectrum and that the allocation, re-
14 allocation, assignment, re-assignment, re-classification, joint use or co-use, and recall of
15 spectrum does not result in the concentration of spectrum resources which promote,
16 establish, or perpetuate the significant market power of PTEs or of only a limited number
17 of participants.

18 The Secretary of the DICT and the Commissioner of the National NTC shall lead these
19 planning sessions and ensure that the spectrum management plan receives public exposure and
20 incorporates stakeholder input gathered through public hearings and consultations.

21
22 **SEC. 8. *National Security Review.*** - The National Security Adviser and/or the Department of
23 National Defense may, *motu proprio* or upon petition by any person, initiate a review of any
24 allocation, re-allocation, assignment, re-assignment, re-classification, joint use or co-use, and
25 recall of spectrum for reasons of national security. The DND shall have a period of thirty (30)
26 working-days upon formal issuance of a notice of review to submit a petition for a review to the
27 RFCC, citing the reasons therefor. A review conducted for reasons of national security shall not
28 require publication and notice; however, any decision on the allocation, re-allocation,
29 assignment, re-assignment, re-classification, joint use or co-use, and recall shall be required to
30 undergo the same publication requirement in Section 6 above.

31
32 **SEC. 9. *Auctions.*** - The NTC and DICT shall establish a competitive bidding methodology
33 for the assignment of Blocks pursuant to this Act. This methodology shall include safeguards to

1 protect the public interest as well as measures to promote the stated objectives of this Act. Thus,
2 the NTC and DICT, with the recommendations of the RFCC. shall:

- 3 a) Consider alternative payment schedules and methods of calculation, including lump sums or
4 guaranteed installment payments, with or without royalty payments, or other schedules or
5 methods that promote the objectives of this Act, and combinations of such schedules and
6 methods;
- 7 b) Include performance requirements, such as appropriate deadlines and penalties for
8 performance failures, to ensure prompt delivery of services to the public, prevent stockpiling
9 or warehousing of spectrum, and promote investment in and rapid deployment of new
10 technologies and services;
- 11 c) Prescribe methods for allocation and assignment that promote an equitable distribution of
12 licenses and services among geographical areas, economic opportunity for a wide variety of
13 applicants, including small businesses, and businesses owned by members of minority
14 groups and women, and investment in and rapid deployment of new technologies and
15 services; and
- 16 d) Require such transfer disclosures and anti-trafficking restrictions and payment schedules as
17 may be necessary to prevent unjust enrichment as a result of the methods employed to issue
18 licenses.

19
20 **SEC. 10.** *Validity of Licenses for the Use of the Radio Frequency Spectrum.* -

- 21 a) The allocation and assignment of spectrum, as embodied in the NRFAT, shall be subject
22 to annual review. The NRFAT shall be updated quarterly and published in a newspaper of
23 general circulation annually.
- 24 b) The NTC may allocate and assign spectrum either on a national or regional basis.
- 25 c) The NTC shall assign spectrum to qualified entities for an initial period of not more than
26 three (3) years from the date of assignment. On the last year of the initial three-year
27 period, the NTC shall review the assignment to determine if the assigned spectrum is
28 being optimally used, and renew or increase, upon the request of the grantee, decrease or
29 recall the same, as necessary. In the event the NTC finds that the assigned spectrum needs
30 to be decreased or recalled, it shall initiate recall proceedings. Subsequent renewals of
31 spectrum assignment shall be for periods of up to five (5) years. The NTC shall, on the
32 last year of every 5-year term, review the use of spectrum and take the necessary action to
33 ensure its optimal use.

1 d) The NTC shall conduct an annual inspection of the facilities of all licensed holders of
2 spectrum to determine compliance with their provisional authorities. The inspection shall
3 include a n audit of the number of subscribers using the spectrum in order to determine if,
4 vis-a-vis the total amount of bandwidth held by the licensee for the use of spectrum for a
5 particular service, the spectrum is being used adequately, effectively, and efficiently.
6 Where the NTC finds that frequency is unused or under-utilized, it shall initiate the
7 appropriate show-cause and/or recall proceedings against the licensee.
8

9 **SEC..11. *Prohibition on Sale, Lease, Transfer, Usufruct and Assignment.*** - A licensee shall
10 not lease, transfer, grant the usufruct of, sell, nor assign a License issued pursuant to this Act, or
11 the rights and privileges acquired there under, to any person, firm, company, corporation, or
12 other commercial or legal entity.
13

14 **SEC.12. *Mergers and Acquisitions.*** - A licensee shall not merge with any person, firm,
15 company, corporation or entity, nor shall a material interest in a licensee be transferred, whether
16 as a whole or in parts, and whether simultaneously or contemporaneously, to any such person,
17 firm, company, corporation or entity, without the prior approval of the RFCC, the NTC, and PCC
18 in separate proceedings in accordance with law.
19

20 **SEC. 13. *Efficient and Equitable Distribution of Spectrum.*** -

- 21 a) No entity or group of entities sharing a Material Interest in each other, may hold more
22 than 25% of the licensed radio frequency spectrum in any given band.
- 23 b) Where the demand for a particular frequency exceeds supply, or the NTC deems it
24 necessary to introduce competition, the NTC shall conduct an open tender. It shall
25 define and determine the process for an open tender, taking into account the need to
26 grant new Provisional Authorities or CPCNs to new entrants, if any.
- 27 c) The NTC shall not assign or re-assign any frequency that has been recalled or
28 voluntarily returned, either as a result of the NTC's annual inspection or review or the
29 transfer of assets of an entity to another entity due to sales or acquisition, or whose use
30 has been reclassified by the NTC from broadcast to telecommunications or vice-versa,
31 without either (i) going through the procedure stated in Sec. 6 of this Act, or (ii) being
32 made subject to open tender under Sec. 9. No co-use shall be authorized or permitted in
33 violation of this section.

1 d) The NTC, in accordance with the recommendations of the RFCC, shall in accordance
2 with global best practice, issue rules and regulations governing shared spectrum use.
3 The NTC and the DICT shall likewise continuously explore and consider the adoption
4 and application of emerging spectrum management practices, such as dynamic spectrum
5 allocation, in order to make spectrum management more effective and efficient for the
6 benefit of consumers.

7
8 **SEC. 14. *Spectrum User Fees.*** - The use of spectrum shall be subject to reasonable spectrum
9 user fees, based on the use of the spectrum, the amount of spectrum used, the type of service
10 being offered, and the economic classification and geographic coverage or scope of the areas
11 covered by the stations licensed to use the spectrum. The NTC shall balance its revenue-raising
12 objectives for spectrum against the need to make spectrum accessible to as wide a number of
13 industry participants as possible. It shall regularly publish the schedule of rates for spectrum.

14
15 **SEC. 15. *Obligations of a Licensee.*** - Every licensee shall be bound by the following
16 obligations:

- 17 a) Observe the spectrum caps stated in this Act;
18 b) Utilize assigned spectrum optimally to provide telecommunications, broadcast, and
19 data transmission services to the public;
20 c) Comply with this Act, its implementing rules and regulations, and all other applicable
21 administrative issuances;
22 d) Pay the lawful fees, charges, and taxes due the national government in connection
23 with licenses issued pursuant to this Act: and
24 e) Obtain prior approval from the RFCC, NTC, and PCC prior to any merger,
25 acquisition, or transfer of material interest in a licensee.

26
27 **SEC. 16. *Implementing Rules and Regulations.*** - The Secretary of DICT, upon the
28 recommendation of the RFCC, NTC, PCC, DOST, and National Security Adviser, shall issue the
29 Implementing Rules and Regulations for the effective implementation of this Act, within sixty
30 (60) days from the approval thereof.

31
32 **SEC. 17. *Separability Clause.*** - If any provision of this Act is declared unconstitutional or
33 invalid by a court of competent jurisdiction, the remaining provisions not affected thereby shall

1 continue to be in full force and effect.

2
3 **SEC. 18. *Repealing Clause.*** - Republic Act 3846, as well as all other laws, decrees,
4 executive orders, department or memorandum orders and other administrative issuances or parts
5 thereof of which are inconsistent with the provisions of this Act, are hereby modified,
6 superseded, or repealed accordingly.

7
8 **SEC. 19. *Effectivity.*** This Act shall take effect fifteen (15) days after its publication in the
9 *Official Gazette* or in a newspaper of general circulation.

Approved,